

A Consumer's Guide to the Arkansas Farm Machinery Lemon Law

THE ARKANSAS NEW FARM MACHINERY QUALITY ASSURANCE ACT



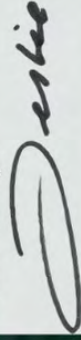
ATTORNEY GENERAL
LESLIE RUTLEDGE

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As a 7th generation Arkansas farm family, I understand the importance of agriculture in The Natural State. With 97% of Arkansas's farms or ranches being family-owned, we must make sure that we protect our largest industry and our agricultural heritage. While equipment is a major and necessary expense for farmers, often costing thousands, even hundreds of thousands of dollars, we must make sure that consumers are protected if that equipment fails and can't be repaired. The Arkansas Farm Machinery Lemon Law provides protection to farmers who will no longer be vulnerable to potentially devastating financial losses due to faulty newly-purchased equipment.

I hope this guide is helpful in informing consumers of their rights under the law; however, my office is always available to answer any additional questions you may have. From our farm family to yours, thank you for your hard work and contributions to our great state.

Sincerely,



Leslie Rutledge
Attorney General



INTRODUCTION

The Consumer Protection Division of the Office of the Attorney General prepared this guide in accordance with Ark. Code Ann. § 4-96-303(b)(1) to explain the rights and obligations of the consumer under the Arkansas New Farm Machinery Quality Assurance Act (commonly known as “The Farm Machinery Lemon Law”), Ark. Code Ann. §§ 4-96-301–308.

This guide is for informational purposes only and should not be considered or relied upon as legal advice.

The Farm Machinery Lemon Law applies to new farm machinery purchased or leased on or after January 1, 2020, that exhibits at least one nonconformity during the farm machinery quality assurance period. If after following the required and specified process, the manufacturer, distributor, or authorized dealer is unable to repair the nonconformity, the consumer is entitled to choose either a comparable replacement or the repurchase of the farm machinery.

IMPORTANT: Consumers should consult with an attorney regarding any questions about how this law may apply to the consumer's particular circumstances.

Farm Machinery Lemon Law Terminology

The following are definitions for key terms used in the Farm Machinery Lemon Law.

Farm machinery is defined under this law as new self-propelled equipment or machinery over 25 horsepower typically used for agricultural purposes that is purchased or leased for the first time from a manufacturer, distributor, or an authorized dealer.

IMPORTANT: Coverage under this law is limited to the engine, transmission and powertrain.

Farm machinery as defined under this law does NOT include the following types of machinery or equipment:

- All-terrain vehicles (ATVs)
- Lawn mowers
- Lawn tractors
- Manually-propelled equipment
- Off-road vehicles
- Any other machinery/equipment under 25 horsepower

A malfunction, defect, or other such problem that "does not conform" to the express warranty issued by the manufacturer and significantly impairs the use, value, or safety of the farm machinery is called a **nonconformity**. A nonconformity must not be the result of abuse, neglect, or a failure to properly operate or maintain by the consumer.

The **Farm Machinery Quality Assurance Period** is the time period during which the consumer must provide a notice of the nonconformity to the manufacturer, distributor, or authorized dealer.

This period is the earlier of either:

- The first 12 months from the date that the farm machinery was first delivered to the consumer, OR
- The first 600 hours of operation of the farm machinery after the date of delivery.

A **notice of the nonconformity** is a written statement by the consumer detailing any nonconformity exhibited by the farm machinery. The notice **must be sent by certified mail** to the manufacturer, distributor, or authorized dealer at the address stated on the notice provided by the seller demanding that the nonconformity be corrected or repaired.

The **seller** means a retail seller of the farm machinery as evidenced by the purchase order or lease agreement, that may be a dealer, distributor, manufacturer, or manufacturer's agent.

The **consumer** means a purchaser or lessee of farm machinery, other than for purposes of resale, or a person entitled to enforce the obligations of the warranty during the duration of the farm machinery quality assurance period.

Farm Machinery Lemon Law Procedures

The procedure for the application of the Arkansas Farm Machinery Lemon Law is as follows:

FIRST, the seller is required to provide to the consumer at the time of sale or acquisition of the farm machinery the following three items:

- A copy of this guide, *A Consumer's Guide to the Arkansas Farm Machinery Lemon Law*, which explains the rights and obligations of the consumer;
- An acknowledgement for the consumer to sign that the consumer received a copy of this guide; and
- A notice that clearly and prominently displays the address and phone number of the manufacturer, distributor, or authorized dealer to which the consumer must send a notification of the nonconformity by certified mail

SECOND, if the farm machinery exhibits one or more nonconformities during the term of the applicable express warranty or during the farm machinery quality assurance period, whichever period expires earlier, the consumer **MUST** send a notification of the nonconformity by certified mail to the seller demanding that the nonconformities be corrected or repaired.

IMPORTANT: The law requires that the notice of the nonconformity be sent by certified mail. It is suggested that the certified mail receipt (green card) be kept in a safe place as proof of the date notification was provided.

THIRD, after the Notice of the Nonconformity is provided, the manufacturer, distributor, or authorized dealer has the right to repair or correct the nonconformity, subject to any of the following conditions:

- The manufacturer, distributor, or authorized dealer has made three (3) unsuccessful attempts to repair *the same nonconformity* AND the cost of repairs is equal to at least thirty percent (30%) of the total purchase price of the farm machinery; OR
- The farm machinery has been out of service for thirty (30) days* *for the same issue* AND the cost of repairs equals thirty percent (30%) of the total purchase price of the farm machinery; OR
- There have been five (5) unsuccessful attempts by the manufacturer, distributor, or authorized dealer to repair *all nonconformities* AND the cost of repairs is equal to at least fifty percent (50%) of the total purchase price of the farm machinery; OR
- The farm machinery has been out of service for sixty (60) days* *for all issues* AND the cost of repairs equals fifty percent (50%) of the total purchase price of the farm machinery.

IMPORTANT: It is suggested that consumers obtain a dated, detailed statement for each repair attempt from the service provider that includes any charges for parts and labor, a general description of the problem, and a list of all work performed, along with the date the farm machinery was brought in for repair and the date it was returned to the consumer. These statements should be kept together in a file as a record of the repair attempts.

FOURTH, if the nonconformity is not repaired or corrected after the allotted number of repair attempts, then within 30 days of the last required repair attempt, the manufacturer or distributor shall at the consumer's option:

- Replace the farm machinery with comparable farm machinery that is acceptable to the consumer; OR
- Repurchase the farm machinery, which means the refund of the full purchase or lease price originally paid by the consumer, LESS the fair lease value of the farm machinery and an offset for any physical damage sustained while in the ownership of the consumer.

IMPORTANT: A replacement or refund shall also include payment to the consumer of all collateral charges and reasonably incurred incidental charges.

**The days that the manufacturer, distributor, or authorized dealer provides comparable farm machinery to use while the consumer's farm machinery is being repaired do not count toward days out of service in determining the dealer's failure to repair the nonconformity.*

Farm Machinery Lemon Law Claim Disputes

The manufacturer, distributor, or authorized dealer may dispute the consumer's claims and may assert any defense allowed by law, including, but not limited to, the following:

- The nonconformity does not substantially impair the use, value, or safety of the machinery;
- The manufacturer, distributor, or authorized dealer has not yet made the specified number of unsuccessful attempts to repair the nonconformity;
- The nonconformity is due to accident, abuse, neglect, or unauthorized modification of the farm machinery by a person other than the manufacturer, agent of a manufacturer, distributor, or authorized dealer;
- The claim was not submitted in good faith; or
- The consumer failed to notify the manufacturer, distributor, or authorized dealer of the nonconformities in the time or manner required by the law.

The consumer may also disagree with any determination by the manufacturer, distributor, or authorized dealer, including but not limited to, the following:

- Whether the farm machinery lemon law applies in the particular circumstance;
- The type and amount of relief the consumer may be entitled to receive;
- Whether the replacement farm machinery is comparable;
- The amount offered for repurchase of the farm machinery; or
- Any other matter applicable under this law.

However, before a consumer may file a lawsuit under this law, the consumer and the manufacturer, distributor, or authorized dealer MUST first attempt to resolve any differences by engaging in mediation with a mediator who is certified by the Arkansas Alternative Dispute Resolution Commission.¹

IMPORTANT: The law requires that the consumer AND the manufacturer shall be equally responsible for mediation cost. If after mediation the matter is still not resolved, the consumer may file a lawsuit in the appropriate court and within the statute of limitations. If the seller did not provide the consumer with the appropriate written statement explaining the consumer's rights and obligations at the time of sale, then the consumer is not required to seek mediation before filing suit.

¹ www.arcourts.gov/administration/adr/certified-mediators

CONTACT INFORMATION FOR NOTICE OF NONCONFORMITY

In order to be eligible for a refund or replacement of the farm machinery as a result of a claim made under the Arkansas New Farm Machinery Quality Assurance Act, a written notice of nonconformity must be sent by certified mail to:

<i>Name of Manufacturer/Distributor/Authorized Dealer:</i>	
<i>Mailing Address:</i>	
<i>City:</i>	
<i>State:</i>	<i>ZIP:</i>
<i>Phone:</i>	

**The seller must provide this information at the time of sale or acquisition of the farm machinery*

Sample letters for a Notice of Nonconformity and Demand for Refund or Replacement may be found at:

www.ArkansasAG.gov/LemonLaw

Arkansas New Farm Machinery Quality Assurance Act CONSUMER ACKNOWLEDGEMENT

I, _____,
(consumer's printed name)

ACKNOWLEDGE that on this DATE: _____ / _____ / _____, I
(month) (day) (year)

☐ PURCHASED ☐ LEASED
(check one)

the farm machinery described as:

<i>Equipment Type:</i>	<i>Year:</i>
<i>Make:</i>	<i>Model:</i>
<i>Serial/ID #:</i>	

from the following retail seller:

<i>Seller's Name:</i>	
<i>Address:</i>	
<i>City:</i>	
<i>State:</i>	<i>ZIP:</i>

I further ACKNOWLEDGE that I received from the seller this copy of
"A Consumer's Guide to the Arkansas Farm Machinery Lemon Law."

Consumer's Signature

Date

The seller must maintain this signed acknowledge for at least the period of coverage of the manufacturer's warranty.

RECORD OF REPAIRS

[illegible]

RECORD OF REPAIRS

DATE IN	REPAIR FACILITY	PROBLEM(S)	RESULT	DATE RETURNED



**For questions or more information about the
Arkansas Farm Machinery Lemon Law, contact:**

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